REMARKS/ARGUMENTS

The Applicants have carefully considered this Application in connection with the Examiner's Action and respectfully request reconsideration of this Application in view of the foregoing Amendment and the following remarks.

The Applicants originally submitted Claims 1-21 in the Application. In previous responses, Claims 5, 12, and 19 were cancelled without prejudice or disclaimer, and the Applicants added new dependent Claims 22-24. The Applicants again amend independent Claims 1, 8 and 15. The Applicants also amend dependent Claim 21. Accordingly, Claims 1-4, 6-11, 13-18, and 20-24 are currently pending in the Application. Support for the present Amendments can be found in paragraphs [0005-0008], [0010-0012], [0017], and FIG. 3 of the present Application.

I. Rejection of Claims 1, 6, 8, 13, 15, 20 and 22-24 under 35 U.S.C. §102

The Examiner has rejected Claims 1, 6, 8, 13, 15, 20 and 22-24 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,774,170 to Hite *et al.* ("Hite"). The Applicants respectfully disagree with these rejections in light of the foregoing amendments and following remarks, and respectfully request the Examiner to allow to claims to issuance.

Hite is generally directed to television and radio advertising, delivering and displaying electronic commercials within specified programming one or more predetermined households while simultaneously preventing a commercial from being displayed in other households or on other displays for which it is not intended. (*See* Abstract.) In Hite, commercials are classified into three categories: 1) non-premeptable, 2) conditionally preemptable, or 3) unconditionally preemptable.

(*See* col. 3, lines 45-47.) Each commercial has an appended Commercial Identifier Code (CID), pertaining to this preemption. (*See* Col. 3, lines 43-44.) At a point of usage, the CID codes are analyzed. When a match between the CID in the commercial and the CID stored at point of use is found, the advertisement is then presented to the viewer. (See col. 3, lines 3-8.) When the CID does not match, the commercial is not displayed. If multiple matches occur, there is a priortization sequence to determine which commercial is displayed at any one time. (*See* col. 4, lines 12-17.) This priortization can account for whether or not a commercial is or is not preemptable.

Claim 1 as currently amended recites that a media player receives *and stores* media from a remote system via said computer network and plays *stored* media content in response to customer requests, *the customer requests constrained by playback rules that selects among media content to be distributed, received, and stored among a plurality of media players, wherein the media player receives and stores, according to the playback rules, at least some different distributed media content than another of the plurality of the media players.*

The Applicants respectfully contend that the media player of amended Claim 1 is not anticipated by the passages of Hite cited by the Examiner. (*See* Examiner's Action, page 3.) For example, col. 5-lines 28-60 of Hite do not disclose customer requests constrained by playback rules that the customer requests constrained by playback rules *that select* among media *content to be distributed,* received, and stored among a plurality of media players. Instead, in Hite, data transmissions are simply broadcasted to a plurality of households. Although RDs may be mentioned in cited passages of Hite, the Applicants are unable to find a disclosure of customer requests

constrained by playback rules that the customer requests constrained by playback rules *that select* among media content to be *distributed,* received, and stored among a plurality of media players.

Furthermore, the Applicants have been unable to find within the cited portions of Hite a disclosure of wherein a media player receives and stores, according to the playback rules, at least some *different* distributed media content than another of the plurality of the media. Instead, Hite merely appears to be directed to a general broadcast of television and radio. (*See* Fig. 1 of Hite.)

Moreover, Claim 1 as currently amended further recites that an advertisement player *that stores* and plays advertisements according to said advertising schedule, the advertising schedule being dependent upon a play of a content of the media, wherein the advertising schedule is correlated to the stored media content, *and the stored media is constrained by the playback rules*, the playback rules as defined in Claim 1. The Applicants respectfully contend that the media player of amended Claim 1 is not anticipated by the passages of Hite cited by the Examiner. For instance, col. 6 line 10, through col. 7, line 14 of Hite discusses finding matches between a CIDs of an incoming advertisement, and a CID in a digital recording device (RD). (*See* Examiner's Action, page 3.) However, the Applicants have been unable to find a disclosure of an advertising schedule that is correlated to stored media content, *the stored media content constrained by the playback rules*. The playback rules are defined in Claim 1. As discussed above, the playback rules *select among media content to be distributed,* received, and stored among a plurality of media players.

Furthermore, as discussed above, the playback rules of Claim 1, *including said media player that receives and stores at least some different distributed media content than another of the plurality of said media, players according to the playback rules*. Although RDs are mentioned in

Hite, the RDs do not employ playback rules that selects among media content to be *distributed*, received, and stored among a plurality of media players wherein said media player receives and stores *at least some different distributed media content than another of said plurality of said media players,* as claimed in amended Claim 1.

Moreover, Hite does not disclose a tracking subsystem that generates as-run logs containing records of a playing of said media and said advertisements and transmits said as-run logs to said remote system via said computer network, the as run logs employed by *the remote system to generate and adjust the playback rules* as defined elsewhere in Claim 1. The Examiner cites to col. 4, lines 62 through col. 5, line 27 as anticipating claim 1 as previously presented. (*See* Examiner's Action, page 3). However, the Applicants are unable to find in the cited portions of Hite of run logs employed to generate *playback rules by a remote system* as defined in Claim 1. Instead, although Hite may discuss communicating certification codes upstream when a commercial is successfully displayed, Hite does not disclose adjusting playback rules as claimed in Claim 1.

Therefore, Hite does not disclose each and every element of the claimed invention, and its dependent claims and as such, is not an anticipating reference. For analogous reasons, Hite does not disclose each and every element of independent Claims 8 and 15, and their dependent claims, either Accordingly, the Applicants respectfully request the Examiner to withdraw the §102 rejection with respect to these Claims, and to allow issuance of Claims 1, 6, 8, 13, 15, 20 and 22-24.

II. Rejection of Claims 2-4, 7, 9-11, 14, 16-18 and 21 under 35 U.S.C. §103

The Examiner has rejected Claims 2-4, 7, 9-11, 14, 16-18 and 21 under 35 U.S.C. §103(a) as being unpatentable over Hite in view of U.S. Patent Publication 2002/0054087 to Noll, *et al.* ("Noll".) The Examiner has not cited Noll for curing the deficiencies of Hite regarding the above-discussed Claim 1. Nor have the Applicants found within the cited portions of Noll a disclosure or teaching of the deficiencies of independent Claim 1, nor for analogous reasons, independent Claims 8 and 15, as discussed above. The Applicants respectfully state that the Examiner has therefore not presented a *prima facie* case of obviousness for these claims.

Therefore, Hite, individually or in combination with Noll, fails to teach or suggest the invention recited in independent Claims 1, 8, and 15 and their dependent claims, when considered as a whole. Claims 2-4, 7, 9-11, 14, 16-18 and 21 are therefore not obvious in view of Hite and Noll. In view of the foregoing remarks, the cited references do not support the Examiner's rejection of Claims 2-4, 7, 9-11, 14, 16-18 and 21 under 35 U.S.C. §103(a). The Applicants therefore respectfully request the Examiner withdraw the rejection and allow the claims to issuance

III. Conclusion

In view of the foregoing amendment and remarks, the Applicants now see all of the claims currently pending in this Application to be in condition for allowance and therefore earnestly solicit a Notice of Allowance for Claims 1-4, 6-11, 13-18 and 20-24.

The Applicants request the Examiner to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present Application. The Commissioner is hereby authorized to charge any fees, credits or overpayments to Deposit Account 08-2395.

Respectfully submitted,

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